

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

WESTFIELD EAST MAIN STREET LLC,

Plaintiff,

v.

C. DAVID TRADER and JEAN M. TRADER,
DONALD GOVE, BRIAN BURKE,
MICHAEL BRETON, BRADFORD MOIR,
MARY MOIR, INTERSTATE BUILDING
SUPPLY, INC. and LUMBER CENTER, INC.,

Defendants.

Civil Action
No. 04-30170-MAP

**Plaintiff Westfield East Main Street LLC's
Motion to Enforce Settlement**

On May 18, 2006, almost five months ago, the parties participated in mediation before Magistrate Judge Neiman. The parties reached agreement on settlement terms, which Magistrate Judge Neiman reported to the Court on May 18, 2006. See Report re: Reference for Alternative Dispute Resolution dated May 18, 2006. A sixty-day order of dismissal entered. See Settlement Order of Dismissal dated May 19, 2006. The parties then negotiated a final settlement document and extended the nisi period to August 15, 2006 to allow time for signatures.

Despite numerous requests, defendants failed to sign the Settlement Agreement, the terms of which were fully negotiated and agreed-to by both sides. Thus, by Motion dated September 1, 2006, plaintiff sought the Court's assistance in enforcing the settlement. See Plaintiff Westfield East Main Street LLC's Motion for Enforce Settlement Agreement, dated September 1, 2006 (the "Motion"). On or about September 7, 2006, only after plaintiff filed its Motion, defendants executed the Settlement Agreement. To date, however, and again despite numerous requests,

defendants have failed to satisfy their obligations (to make payments to certain Massachusetts and Connecticut charities) under the Settlement Agreement. See Settlement Agreement, attached to Motion to Enforce Settlement Agreement dated September 1, 2006. This is consistent with the pattern of delay that has plagued defendants' conduct throughout both this case and the related state matter.

WHEREFORE, plaintiff Westfield East Main Street LLC requests the Court to enter an order compelling defendants to satisfy their obligations under the Settlement Agreement within ten days from the date of the Court's order. Plaintiff also requests the Court to award it its reasonable attorneys' fees and costs in preparing this motion.

WESTFIELD EAST MAIN STREET LLC,

By its attorneys,

/s/ Pamela Zorn Adams

David A. Brown, BBO# 556161

Pamela Zorn Adams, BBO# 640800

Sherin and Lodgen LLP

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Dated: October 16, 2006

Certificate of Service

I, Pamela Zorn Adams, hereby certify that on the 16th day of October, 2006, I served a copy of the foregoing document by hand/mail to all counsel of record.

/s/ Pamela Zorn Adams

Local Rule 7.1 (A)(2) Certification

Undersigned counsel for the plaintiff Westfield East Main Street LLC hereby certifies that David A. Brown has conferred in good faith with William Pudlo, counsel for defendants, in an attempt to resolve this issue.

/s/ Pamela Zorn Adams